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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,466

12/03/2003

Farzan Mamaghani

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EXAMINER

MEKY, MOUSTAFA M

ART UNIT

PAPER NUMBER

2157

MAIL DATE

DELIVERY MODE

05/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/725,466	Applicant(s) MAMAGHANI ET AL.	
	Examiner Moustafa M. Meky	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43,44 and 46-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-44, 46-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The response and the terminal disclaimer have been entered and considered by the examiner.
2. Claims 43-44 & 46-58 are presenting for examination.
3. Claim 55 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 55 states that the preferred information is to include email data. However, the specification teaches that the email data is non-preferred data. Therefore, it can be seen from the above discussion that claim 55 is rejected under 35 U.S.C. 112, first paragraph.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
5. Claim 43-44, 46, and 50-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Lai (US Pat. No. 6,600,737).
6. As to claim 43, Lai shows in Fig 2, an end-user terminal (206), comprising:
 - a processor (not shown in the fig and it is inherently part of the terminal 206) ;
 - a memory 230 (see col 3, lines 41-50) to store instructions adapted to be executed by the processor to receive a command (transfer data rate input) from a communication

network 204 (the command originally sent from the client 202 and transmitted through the network 204) and to change, in response to the command, a rate at which the terminal 206 sends information to the network 204 in response to the command, wherein the command is to identify a type of information (non-voice data and/or voice data), see the abstract, lines 1-13, col 1, lines 55-60, col 4, lines 31-50.

7. As to claims 44 & 46, the command (transfer data rate input) is to originate from a network status manager (client 202) in the network 204 and the command is based on a quality of service requirement and a performance of the network (the client 202 would detect the status of the connection), see col 4, lines 35-44.

7. As to claims 50-52, the claims are similar in scope to claims 43-44 & 46, and the claims are rejected under the same rationale.

8. As to claims 53-54, the command is to identify the preferred information (voice data), see col 4, lines 31-50.

9. As to claim 55, the non-preferred information is to include email data, see col 4, lines 44-47.

Therefore, it can be seen from paragraphs 6-9 that Lai anticipates claims 43-44, 46, and 50-55.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 47-49 & 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai .

12. As to claims 47-49, Lai shows in Fig 2, an end-user terminal (206) as been discussed in paragraph 6 above. However, the terminal 206 of Lai is not a wireless telephone, or handheld manager, and or a wireless computer. Since, the teaching of Lai is not limited to a specific kind of terminal and the wireless terminals would send and receive both voice and non-voice data, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to anticipate wireless terminals within the system of Lai in order to increase the system flexibility (the modified system would have different kinds of terminals to provide more flexibility).

13. As to claims 56-58, the claims are similar in scope to claims 47-49, and they are rejected under the same rationale.

Therefore, it can be seen from paragraphs 12-13 that the modified system of Lai teaches the limitations of claims 47-49 & 56-58.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

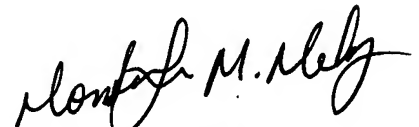
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Moustafa M. Meky whose telephone number is 571-272-4005. The examiner can normally be reached on flex.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MMM
5/10/2007


MOUSTAFA M. NERY
PRIMARY EXAMINER